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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,072	07/11/2003	Brian Dentler	020375-007210US	3588
20350	7590	10/11/2007	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP			WONG, ERIC TAK WAI	
TWO EMBARCADERO CENTER			ART UNIT	PAPER NUMBER
EIGHTH FLOOR			4172	
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10/11/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/618,072	DENTLER ET AL.
	Examiner Eric T. Wong	Art Unit 3609 4172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 July 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>2/07/2005</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

1. Claims 1-26 are pending. The following is a non-final first Office action on the merits of claims 1-26.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-7, 9-11, 13-24, 26 rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 7,191,151 B1 to Nosek.

### **As per claim 1.**

Nosek ('151) discloses:

retrieving a history of profile records for the credit account over a period of time preceding receipt of the payment, each such profile record corresponding to a date within the period of time and including an account balance for the credit account on the date and a value of credited payments made towards the credit account on the date, (abstract);

and determining whether to float the payment from an analysis of the history of profile records, (abstract).

Examiner notes prior art as disclosing a credit source. The credit source is a credit card in which the amount of credit issued is determined by a history of profile records. These records form a credit history that includes account balances and values of credited payments. Therefore, the limitation "history of profile records" is inherent in Nosek ('151).

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**As per claims 2 and 9.**

Nosek ('151) further discloses:

each such profile record further includes an indication whether any prior payments are floating on the date, (abstract).

determining whether to float the payment comprises considering the number of credited payments floated over the period of time, (abstract).

Examiner notes placing a hold on the credit source is an indication whether any prior payments are floating.

**As per claims 3, 4, and 10.**

Nosek ('151) further discloses:

each such profile record further includes the number of credited payments made towards the credit account within a time window preceding the date, (col 8: lines 5-10).

each such profile record further includes a cumulative value of credited payments made towards the credit account within a time window preceding the date, (col 8: lines 5-10).

determining whether to float the payment comprises considering the number of credited payments made over the period of time, (col 8: lines 5-10).

Examiner notes prior art as disclosing determining a "trustworthy pattern of usage." It is old and well known in the art that both the number of credited payments and the cumulative value of credited payments made towards the credit account(s) are considered in determining a behavior or credit score. One of ordinary skill in the art at the time of invention would have considered both factors in determining a trustworthy pattern of system usage.

**As per claims 5 and 6.**

Nosek ('151) further discloses:

the time window is at least as great as an expected time for the payment to clear.

the period of time has a length at least as great as an expected time for the payment to clear.

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Examiner notes it is old and well known in the art that credit history (see rejection of claim 3 above) spans over multiple years. One of ordinary skill in the art at the time would have known the expected time for payment (check) to clear is normally 2-10 days.

**As per claim 7.**

Nosek ('151) further discloses:

each such profile record further includes a behavior score, (col 8: lines 5-10).

Examiner notes the prior art as disclosing a credit source. Credit sources using a behavior score is old and well-known in the art. A FICO credit score, for example, is a behavior score that reflects credit worthiness.

**As per claim 11.**

Nosek ('151) further discloses:

determining whether to float the payment comprises:

determining a fraction of the payment to float; and  
determining a time to hold a remainder of the payment, (col 8: lines 5-10).

**As per claim 13.**

Nosek ('151) further discloses:

maintaining a history of profile records for the credit account, each such profile record corresponding to a date and including an account balance for the credit account on the date and an indication whether any prior payments are floating on the date, (abstract);

determining a new profile record in response to receipt of a payment towards the credit account or of a request for a charge against the credit account; and adding the new profile record to the history of profile records, (col 8: lines 5-10).

**As per claim 14.**

Nosek ('151) further discloses:

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determining the new profile record comprises determining whether to float the payment, (col 8: lines 5-10).

**As per claim 15.**

Nosek ('151) further discloses:

determining whether to float the payment comprises:

determining a fraction of the payment to float; and  
determining a time to hold a remainder of the payment, (col 8: lines 5-10).

**As per claim 16.**

Nosek ('151) further discloses:

determining whether to float the payment comprises analyzing a plurality of profile records retrieved from the history, (abstract).

**As per claim 17.**

Nosek ('151) further discloses:

each such profile record further includes a behavior score, (col 8: lines 5-10).

**As per claims 18-23.**

The claims are drawn to a computer-readable storage medium having executable instructions for performing the processes of claims 1, 2, 3, 4, 7, and 8. As such, the claims are rejected for the reasons of rejection given as per the rejection of claims 1, 2, 3, 4, 7, and 8

**As per claims 24 and 26.**

The claims are drawn to a computer system for performing the processes of claims 1 and 2. As such, the claim is rejected for the reasons of rejection given as per the rejections of claims 1 and 2.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 8 and 25 rejected under 35 U.S.C. 103(a) as being unpatentable over Nosek ('151) as applied to claims 1 and 24 above, and further in view of US Patent No. 5,774,883 to Andersen et al.

**As per claim 8.**

Nosek ('151) does not expressly disclose:

determining whether to float the payment comprises developing a worst-case profile from the history of profile records

Andersen et al. ('883) teaches:

determining whether to float the payment comprises developing a worst-case profile from the history of profile records, (col 6: lines 5-10).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Nosek ('151) with:

determining whether to float the payment comprises developing a worst-case profile from the history of profile records

One of ordinary skill in the art at the time of invention would have been motivated to make such modification for the benefit of reducing risk.

**As per claim 25.**

The claim is drawn to a computer system for performing the process of claim 8. As such, the claim is rejected for the reasons of rejection given as per the rejection of claim 8.

4. Claim 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Nosek ('151) as applied to claim 1 above, and further in view of Official Notice.

**As per claim 12.**

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Nosek ('151) does not expressly disclose:

determining whether the payment comprises a cash or cash-equivalent payment

Official Notice is taken that:

determining whether the payment comprises a cash or cash-equivalent payment

is old and well-known in the art. For example, a vendor may require a check to clear before the transfer of merchandise, whereas there may be no time requirement for a cash or cash-equivalent payment.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Nosek ('151) with:

determining whether the payment comprises a cash or cash-equivalent payment

One of ordinary skill in the art at the time of invention would have been motivated to make such modification for the benefit of reducing risk.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric T. Wong whose telephone number is (571) 270-3405. The examiner can normally be reached on Monday-Friday 7:30AM-5:00PM, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric T. Wong  
Examiner  
Art Unit 3609 4172

Sep 2007

*ATD*  
THOMAS A. DIXON  
SUPERVISORY PATENT EXAMINER